



## UNITED STATES DEPARTMENT OF COMMERCE

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
P-105,170	11-Dec-01	ULRICH BAUR, ET AL.	DE9-2000-0072-US1

Title: SELFTEST FOR LEAKAGE FOR DRIVER/RECEIVER  
STAGES

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Art Unit	Paper Number
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PATENT & TRADEMARK OFFICE  
MAILED

JAN 25 2002

LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the  
Petition for Retroactive License under 37 CFR 5.25.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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JAN 25 2002

LICENSING & REVIEW

In re: Baur et al : DECISION ON REQUEST  
Serial No.: P-105,170 : UNDER 37 CFR 5.25  
Filing date: n/a  
Docket No: DE9-2000-0072-US1

Title: SELF-TEST FOR LEAKAGE FOR DRIVER/RECEIVER STAGES

This is a decision on the petition filed on 11 December 2001 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
  - i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
  - ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
  - iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee ( § 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(iii) have not been met.

Declarants have not established error. Specifically, Declarants aver that because the invention was developed primarily in Germany through conference calls with US citizens residing in the US, then the invention was not made in the US. This is not indicia of error in filing since the declarants do not state that they believe a foreign filing license was required. Nowhere do the declarants aver that an error occurred and nowhere do declarants state what steps, if any, are undertaken to insure such an oversight does not occur in the future. An "oversight" is not effectively an "error" under 37 CFR 5.25. The mere conclusion that an error occurred through oversight, without more, falls short of what the regulations required.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).



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